

Docket No.: 04-02 US**REMARKS****STATUS SUMMARY**

Claims 1-43 are pending in the present Application. Claims 1-43 are rejected by the Examiner. In this Amendment, Applicant has canceled claims 1-43 and added new claims 44-63.

Rejections Under 35 U.S.C. § 112

Claims 3 and 4 are rejected under 35 U.S.C. § 112, second paragraph. Applicant has canceled claims 3 and 4 such that this rejection is now moot.

Claim Rejections – 35 U.S.C. § 102

Claims 1-5, 7-13, 15, 16 and 18-23 and 25 are rejected under 35 U.S.C. § 102(b) as being anticipated by Shah et al. (U.S. Patent No. 3,801,280). Claims 1-17, 21 and 23-43 are rejected under 35 U.S.C. § 102(b) as being anticipated by Zuellig et al. (U.S. Patent No. 6,126,904). Claims 1-4, 7-16 and 18-20 are rejected under 35 U.S.C. § 102(b) as being anticipated by Nielsen (U.S. Patent No. 6,582,116). Applicant respectfully maintains traversal of these rejections in view of Applicant's prior replies submitted during prosecution of the present application. However, Applicant has canceled claims 1-43 in favor of newly added claims 44-63. New claims 44 – 63 are supported throughout the specification as originally filed. Accordingly, no new matter is believed to have been added. Accordingly, Applicant respectfully requests reconsideration of the rejections under 35 U.S.C. § 102(b) and the content of the prior art of record in view of new claims 44 – 63.

Independent new claim 44 recites “means for supporting a sample carrier in a container” and “a drivable component attached to the sample carrier supporting means.” Claim 44 recites that “the drivable component includ[es] means for actuating the drivable component and the sample carrier supporting means to move together in the container.” Further, claim 44 recites that “the actuating means [is] responsive to non-contacting coupling with a driving source disposed entirely outside the container.” The invention, as claimed, teaches for the first time a means whereby a sample carrier can be supported within a container and driven into motion

Docket No.: 04-02 US

within the container without any contact with the driving source utilized to effect the actuation. The prior art of record fails to teach or render obvious the claimed invention.

Zuellig et al. is representative of known magnetic agitating elements, such as magnetic stir bars and beads. Nielsen is representative of known paddles and similar types of agitating elements. Whether such paddles are driven by external magnetic means or purely mechanical means, they require extension through the closure member of a vessel and in any case are simply agitating elements. Shah et al. is an example of adapting a magnetic stir bar to function as a cylindrical filter screen.

None of these prior art references teaches non-contacting actuation of sample carriers, which term limits the scope of claim 44. Applicant's previously submitted replies have pointed out the meaning of "sample carrier" and "means for supporting a sample carrier." The amendment made herein to the specification, which is clearly supported by the existing specification, adds further clarification to such terms.

Independent new claim 56 recites "placing the movable component and the sample carrier in a container," and "actuating the movable component to move entirely within the container without extending outside the container, by coupling the movable component with a driving source disposed entirely outside the container in non-contacting relation to the movable component." Applicant's arguments above regarding claim 44 apply also to claim 56.

In view of the foregoing, Applicant respectfully submits that new claims 44 – 63 are patentable over all prior art of record, and therefore respectfully requests favorable consideration and allowance of new claims 44 – 63.

Docket No.: 04-02 US

CONCLUSION

In light of the above amendments and remarks, it is respectfully submitted that the present application is now in proper condition for allowance, and an early notice to such effect is earnestly solicited.

If any small matter should remain outstanding after the Patent Examiner has had an opportunity to review the above Remarks, the Patent Examiner is respectfully requested to telephone the undersigned patent attorney in order to resolve these matters.

Respectfully submitted,

THE ECLIPSE GROUP LLP

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